

UNITED STATES BANKRUPTCY COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION
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In re:

IPS Worldwide, LLC,

Case No.: 6:19-bk-00511-KSJ

Chapter 11

Debtor.

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**UNITED STATES TRUSTEE'S EMERGENCY
UNOPPOSED MOTION TO APPOINT A CHAPTER 11 EXAMINER**

Daniel M. McDermott, United States Trustee for Region 21 ("UST"), moves this Court to enter an order directing the appointment of a Chapter 11 examiner in this case. In support, the UST states:

STANDING

1. The United States Trustee has standing to seek the appointment of a Chapter 11 examiner, under 11 U.S.C. §§ 307, 1104(a), 1104(c), as well as 28 U.S.C. § 586. *See also* Collier on Bankruptcy ¶ 1112.04[1] (Alan N. Resnick & Henry J. Sommer eds., 16th ed.).

BACKGROUND

2. On January 25, 2019, IPS Worldwide, LLC ("Debtor") filed a voluntary petition for relief under Chapter 11 of the United States Bankruptcy Code (Doc. 1; "Original Petition") signed by Mr. William Davies ("Mr. Davies") as President of the Debtor.

3. The Original Petition reflects that the Debtor has estimated assets of less than \$50,000.00 and estimated liabilities between \$100 million to \$500 million. (Doc. No. 1 at 3.) Filed with the Original Petition, the Debtor's List of 20 Largest Unsecured Creditors (Doc. No. 1 at 5-6) indicates total debt in the amount of \$121,174,321.70 held by these creditors.

4. On January 25, 2019, the Court entered an Order Authorizing Debtor-in-

Possession to Operate Business (Doc. No. 3).

5. On January 28, 2019, the Clerk of the Court filed a Notice of Deficient Filing (Doc. No. 6) as to various deficiency including Debtor's failure to file summary of Assets; Schedules A-B, D-H; Declaration Concerning Schedules; Statement of Financial Affairs; Case Management Summary; and Disclosure of Compensation.

6. On January 30, 2019, the Debtor filed an amended petition (Doc. No. 23; "Amended Petition") to remove the estimated assets and liabilities, leaving these sections blank. (Doc. No. 23 at 3.) To date, the Debtor's List of 20 Largest Unsecured Creditors has not been amended.

7. The Case Management Summary (Doc. No. 43) filed on February 4, 2019 reflects that Mr. Davies is the President and sole member of the Debtor. The Debtor is a Florida Limited Liability Company formed in Ormond Beach, Florida in 1998 by its founder, Mr. Davies. The Debtor operates as a freight audit and payment solutions business, with recent annual revenue of approximately \$8 million. The Debtor currently has offices in seven countries, covering North America, Europe, Asia and Latin America.

8. A meeting of creditors is currently scheduled for February 25, 2019 at 10:00 a.m.

9. To date, a committee of unsecured creditors has not been appointed by the UST.

RELIEF SOUGHT

10. The Debtor consents to the relief sought by the UST. On February 5, 2019, the undersigned contacted the Debtor's legal counsel, Scott W. Spradley, Esq., who informed her that Mr. Davies is in agreement with the appointment of a Chapter 11 examiner.

8. Section 1104(c) states:

If the court does not order the appointment of a trustee under this section, then at any time before the confirmation of a plan, on request of a party in interest or the

United States trustee, and after notice and a hearing, the court shall order the appointment of an examiner to conduct such an investigation of the debtor as is appropriate, including an investigation of any allegations of fraud, dishonesty, incompetence, misconduct, mismanagement, or irregularity in the management of the affairs of the debtor of or by current or former management of the debtor, if—

- (1) such appointment is in the interests of creditors, any equity security holders, and other interests of the estate; or
- (2) the debtor's fixed, liquidated, unsecured debts, other than debts for goods, services, or taxes, or owing to an insider, exceed \$5,000,000.

11 U.S.C. § 1104(c).

9. To date, a Chapter 11 trustee has not been appointed.

10. During the short pendency of this case, serious allegations have been raised by numerous creditors, including Stanley Black & Decker, Inc., YRC Enterprise Services Inc., and Integrated Supply Network, LLC, in various pleadings filed in this case¹ as well as presented to the Court at the initial status conference on February 4, 2019. These allegations appear to center on the unknown whereabouts of more than \$100 million.

11. A Chapter 11 examiner would provide necessary clarity in this case. Pursuant to Section 1106(b), an examiner can be directed to “investigate the acts, conduct, assets, liabilities, and financial condition of the debtor, the operation of the debtor's business and the desirability of the continuance of such business, and any other matter relevant to the case or to the formulation of a plan.”

12. Based on the allegations in this case and the Debtor's willingness to provide

¹ See (i) Emergency Motion to Compel the Debtor to Assume or Reject the Services Agreement Pursuant to 11 U.S.C. § 365(D)(2) filed by Stanley Black & Decker, Inc. (Doc. No. 15); (ii) Response to Stanley Black & Decker, Inc.'s Emergency Motion for Entry of an Order Compelling the Debtor to Assume or Reject Agreement Filed by YRC Enterprise Services, Inc., YRC, Inc. d/b/a YRC Freight (Doc. No. 39); and (iii) Emergency Motion to Assume (I) Freight Bill Processing Services Agreement and (II) Logistics Services Agreement filed by Integrated Supply Network, LLC (Doc. No. 45).

transparency, the appointment of an examiner appears to be in the best interests of all interested parties.

WHEREFORE, based on the foregoing, the UST requests the Court enter an Order (i) granting this motion; (ii) directing the UST to appoint a Chapter 11 examiner; and (iii) granting such other and further relief as is just and proper.

DATED: February 6, 2019.

Respectfully submitted,

Daniel M. McDermott
United States Trustee, Region 21

/s/ Audrey May Aleskovsky
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 6, 2019, I caused a true and correct copy of the foregoing Motion to be served electronically through CM/ECF to all parties having appeared electronically in the instant matter and by U.S. Mail, postage prepaid, on the following:

IPS Worldwide, LLC
265 Clyde Morris Blvd., Suite 100
Ormond Beach, FL 32174

/s/ Audrey May Aleskovsky
Audrey May Aleskovsky, Trial Attorney